



Town of Berwyn Heights

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ORDINANCE 101 - ANIMALS

Section 1. Purpose – It is the intent of the Town Council of Berwyn Heights to establish the following Animal Ordinance designed to protect Town residents from the risks and nuisances posed by public nuisance animals and public nuisance conditions, and to promote the health, safety, and welfare of animals within Town boundaries.

Section 2. Authority - The authority is provided for in Section 402 of the Town Charter of Berwyn Heights.

Section 3. Scope - This Ordinance places certain responsibilities on animal owners and custodians as well as on property owners or occupants. Certain activities, or the lack of performing certain activities, are deemed to be violations of this Ordinance. A process of issuing notices of violation is defined, as are the procedural steps that the Town of Berwyn Heights may use to enforce such violation notices.

Section 4. Definitions - As used in and for the purposes of this Ordinance, the following words and phrases shall have the meanings assigned to them herein:

- A. **Animal** shall mean every nonhuman species or animal, both domesticated and wild, including but not limited to dogs, cats, livestock, and fowl.
- B. **At-large** shall mean an animal not under physical restraint of a leash and off the premises of its owner or custodian.
- C. **Cat** shall mean domesticated felines. The term "cat" shall not include wild or exotic felines.
- D. **Dog** shall mean any member of the domesticated canine species.
- E. **Enforcement officer** shall mean any Town of Berwyn Heights Police Officer or person appointed or designated by the Town Council to enforce this Ordinance.

- F. **Keeping or harboring** shall mean the act of or the permitting by a property owner or occupant of feeding or sheltering any domesticated animal on the premises.
- G. **Animal Owner or custodian** shall mean a person who keeps, has temporary or permanent custody, possesses, harbors, exercises control over, or has a property right in any animal, livestock, or fowl. The parent(s) or guardian(s) of a minor shall be deemed to be the owner of an animal owned or in the possession and control of the minor child for purposes of this Ordinance and shall be liable for all damages caused by the animal.
- H. **Pet** shall mean a domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, dogs, cats, birds, fish, reptiles, and other animals, which, by habit or training, live in association with man.
- I. **Public nuisance animal** shall mean any animal which unreasonably annoys humans, endangers the life or health of other animals or humans, or gives offense to human senses; or which substantially interferes with the rights of the citizens, other than its owner, to enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal which:
1. is repeatedly found at large; or
 2. damages the property of anyone other than its owner or custodian; or
 3. molests or intimidates pedestrians or passersby; or
 4. excessively makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing reasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored; or
 5. causes fouling of the air by odor and causing thereby unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored; or
 6. causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored; or
 7. attacks other domestic animals.
- J. **Public nuisance condition** shall mean an unsanitary, dangerous, or offensive condition occurring on any premises caused by the size, number or types of animals maintained, kept or harbored, or due to the inadequacy of the facilities or by reason of the manner or method of holding, confining, restraining, boarding, or training animals. A public nuisance condition shall be deemed to exist on any premises in which any animal is maintained, kept, or harbored under conditions which constitute cruelty to such animals, or where the animal maintained, kept or harbored is a public nuisance animal.
- K. **Sanitary** shall mean a condition or good order and cleanliness which minimizes the probability of transmission of disease.
- L. **Vicious animal** shall mean any animal which attacks, bites, or injures humans or domesticated animals without adequate provocation, or which, because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals. An animal which on one or more occasions caused significant injury to a human or domesticated animal may be deemed to be a vicious animal.

Section 5. Adoption of Selected Prince George's County Codes

- A. The Prince George's County Code, Subtitle 3, Divisions 1 through 7, as may be amended from time to time is hereby incorporated by reference and adopted in this Ordinance to the extent it is not inconsistent herewith. When a conflict exists between the County Animal Control Code and a Town Ordinance, the Town Ordinance shall prevail. References in the Prince George's County Animal Control Code to authorized County representatives shall be interpreted to include the applicable Town officials.
- B. The Prince George's County Zoning Code, Subtitle 27, as may be amended from time to time is hereby incorporated by reference and adopted in this Ordinance to the extent it is not inconsistent herewith.
- C. The Prince George's County Animal Management Division enforces licensing and permits, animal cruelty concerns, and the prohibition on the keeping of wild/exotic animals, animal fighting, attack dogs, and vicious or dangerous animals.
- D. The Prince George's County Department of Permitting, Inspection and Enforcement enforces the Zoning Ordinance regarding animal activities (e.g., boarding/breeding kennels, livestock) allowed within the Town.

Section 6. Standards. The following are minimum standards for enforcement of anti-cruelty laws for pets:

A. Food

- a. Food shall be wholesome, palatable and free from contamination.
- b. Food shall be of sufficient quantity and nutritive value to maintain all animals in good health.
- c. The diet shall be prepared with consideration for the age, species, condition, size and type of animal.
- d. Animals shall be fed at least once a day except as dictated by hibernation, veterinary advice or other professionally accepted practices for the safety and well being of the animal.
- e. All food receptacles shall be kept clean and sanitary.
- f. If more than one animal is fed at one time or in one place, it shall be the responsibility of the owner/custodian to ensure each animal receives enough.

B. Drink

- a. Proper drink shall mean clean, potable water available at all times.
- b. Exceptions shall be determined by a veterinarian.
- c. All water receptacles shall be kept clean and sanitary.

C. Air

- a. Holding areas shall be constructed to allow the free flow of fresh air.

D. Space

- a. All animals must be able to stand to their full height, stretch out, turn around, lie and make normal postural and social adjustments comfortably and with adequate freedom of movement to maintain physical condition.
- b. Unless animals are allowed to exercise freely twice a day for periods of at least one hour, the square footage of the area of confinement must equal the length of the animal multiplied by six (6). The area must be of sufficient height to allow the animal to stretch to its full height.
- c. If an animal is confined by a chain or tether, the length of the chain or tether shall be fifteen (15) feet, and shall be arranged so that it cannot become entangled.

- d. The above space standards may not be sufficient for certain animals. Inadequate space may be indicated by evidence of poor physical condition and stress or abnormal behavior patterns such as pacing or circling within the area of confinement.

E. Light

- a. All animals must have five (5) hours of light every day, except as dictated by hibernation, veterinary advice or professionally accepted practices for the safety and well-being of the animal.
- b. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination. The duration of illumination shall be appropriate for the species involved.

F. Indoor Shelter

- a. Facilities shall be sufficiently regulated by heating or cooling, if necessary, to protect animals from extremes of temperature and to provide for their health and comfort.
- b. The ambient temperature shall not be allowed to fall below or rise above temperatures compatible with the health and comfort of the animal.
- c. Facilities shall be adequately ventilated by natural or mechanical means to provide for the health of and to prevent the discomfort of the animal at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans or air conditioning and shall be ventilated so as to minimize drafts, odors and moisture condensation.

G. Outdoor Shelter (General)

- a. All animals must have access to shade from the sun.
- b. All animals kept outdoors must have access to a weatherproof shelter. Between November 1 and March 30 and in inclement weather, the term "weatherproof" shall mean a structure of no less than three sides, a roof and floor.
- c. Structures shall be windproof and moisture proof.
- d. In cases where there is no artificial heat source, structures must be small enough, if appropriate, to allow the animal to maintain its body heat and to warm the interior of the structure.
- e. No outdoor shelters shall have any interior metal surfaces.

DOGS: The shelter for a dog shall have a solid floor raised at least two (2) inches from the ground. The entrance shall be covered by a flexible, windproof material or a self-closing door. Between November 1 and March 30, bedding such as cedar chips, hay or straw shall be provided for insulation against the cold and damp. Bedding must be kept dry.

CATS: Cats maintained outside must be confined on their owner's property and provided with proper food, water, and shelter.

H. Veterinary Care

- a. **EMERGENCY TREATMENT:** An animal shall be afforded immediate veterinary care if it is known or suspected to have suffered an accident or has been struck by a vehicle, person or heavy object with force or frequency sufficient to cause internal or external injury, and exhibits signs of such injury such as vomiting, diarrhea, shock, temperature fluctuation, tremors, swelling, broken bones, open wounds, inability to eat, blistering, irregular or abnormal breathing, partial or total paralysis, irrational behavior, discharge or bleeding from any orifice, or other such sign. Animals exhibiting symptoms of bloat shall receive immediate veterinary care.
- b. **TREATMENT WITHIN FORTY-EIGHT HOURS:** An animal shall be afforded veterinary care if it has exhibited any sign of illness, severe parasitic infestation or disease such as infection, orificial bleeding or discharge, failure to void, loss of appetite, moaning, weight loss, abnormal skin condition or hair loss, tremors,

temperature fluctuation, crying, vomiting, diarrhea or any other such sign over a period of forty-eight hours or more.

- c. INCIDENTAL: If an animal has an abnormal growth of a size or weight or in such a position as to impede the animal in any way, such condition shall be brought to the attention of a veterinarian.

I. Sanitation

- a. Indoor enclosures shall receive cleanings as necessary to remove excreta, dirt and debris so as to minimize disease hazards, odor and danger to the animal.
- b. Exterior property areas shall be maintained free from imminent threats such as domestic animals in a contaminated or soiled environment; hazardous threats such as an excessive accumulation of domestic animal feces; and kept in a reasonably clean and sanitary condition in accordance with Ordinance 107.
- c. No owner or custodian of a domestic animal shall permit excrement of such animal to remain on public property at any time or to remain on private property without consent of the owner or occupant thereof. Failure of the owner or custodian of the animal to immediately remove the animal's excrement shall be a violation of this Ordinance. The owner or custodian of the animal shall be liable for any damages.

J. Grooming

- a. Animals with coats requiring grooming to prevent severe matting, filth accumulation and/or skin diseases shall be groomed in accord with normal and accepted grooming practices.

K. Restraint

- a. Dogs and cats are not allowed to be maintained on a balcony or to be on a balcony unless accompanied by a human adult.
- b. Animal owners or custodians within the municipal limits of the Town of Berwyn Heights must confine his or her animal securely on his or her property or place of residence. Animals not on the property must be accompanied by a responsible person and effectively restrained by a leash no longer than eight (8) feet in length to prevent such animal from running at-large, molesting any person, or defiling any property. No animal running at-large by accident with a person in immediate pursuit of it shall be deemed to be at-large, running at-large, or a stray. An animal undergoing obedience training or securely confined within a motor vehicle is deemed to be effectively restrained and will not be deemed to be at-large or running at-large. The owner or custodian of any animal found at-large or running at-large will be held liable for any damages caused by such an animal.

L. Noise

- a. Sounds from dogs, birds or other animals that cause frequent or sustained noise are prohibited if they produce audible sound beyond the property line of the property on which these activities are being conducted or from the public right-of-way, and exceed the decibel levels for the time period set forth and specified in Ordinance 153.

Section 7. Enforcement

- A. Whenever the Code Compliance Officer or other designated Town representative determines that there are reasonable grounds to believe that there has been, or is, a violation of any provision of this Ordinance or of any rule or regulation adopted pursuant thereto, the Code Compliance Officer or designated representative shall give notice of such alleged violation to the person or persons responsible therefore, as herein after provided unless otherwise noted in this Ordinance.

B. Such notice shall:

1. Be in writing;
2. Include a description of the animal and/or real property sufficient for identification;
3. Include a statement of the reason why the notice is being issued with reference to the section of this ordinance violated;
4. Allow time, as set forth in this Ordinance, for the remedial action required to correct the violation; and
5. Contain:
 - a. An outline of the remedial action which, if taken, will effect compliance with the provisions of this Ordinance and with the rules and regulations adopted pursuant thereto; and
 - b. The requirement that the violation must be fully corrected within the timeframe, as specified in Section 7. D. of this Ordinance. For each additional prescribed period that the violation is not fully corrected, notice will be issued of the fine amount as due and payable to the Town of Berwyn Heights. Fines for failure to take remedial action shall be established by resolution of the Town Council and shall not exceed the amount of one thousand dollars (\$1,000.00). Failure to pay fine(s) will result in the amount of any fine(s) imposed to be collected in the same manner as delinquent Town taxes.

C. Service of notice that a dwelling is in violation shall be as follows:

1. By delivery to the property owner or agent personally or by leaving the notice at the usual place of abode of the property owner or office of the agent with a person of suitable age and discretion who shall be informed of the intent thereof; or
2. By appropriate means of mail addressed to the property owner or agent at the address provided to the Town by the property owner or agent with postage prepaid thereon with return receipt requested, or if said letter is returned with receipt showing non-delivery, then
3. By posting a copy of the notice in a conspicuous place on the premises affected by such notice.

D. Timeframe for Notice of Violation and Penalties. The following table provides categories of timeframes for issuing the initial notice, subsequent notices and assessing penalties and fines.

1. Immediate means a person shall have twenty-four (24) hours to correct the violation from the time the correction notice was issued. If, after twenty-four (24) hours, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. A recurring fine and notice to correct shall be issued in twenty-four (24) hour intervals thereafter until the violation is corrected.
2. Time Sensitive means a person shall have forty-eight (48) hours to correct the violation from the time the correction notice was issued. If, after forty-eight (48) hours, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. A recurring fine and notice to correct shall be issued in forty-eight (48) hour intervals thereafter until the violation is corrected.
3. Regular Order means a person shall have seven (7) days to correct the violation from the time the correction notice was issued. If, after seven (7) days, the violation has not been corrected, another notice to correct which imposes a fine shall be issued. A recurring fine and notice to correct shall be issued in seven (7) day intervals thereafter until the violation is corrected.

E. Any person or persons found violating the Noise Ordinance will receive a warning for the first violation. Any person or persons found to have violated the Noise Ordinance for the second time may receive a warning notice or be fined at the discretion of the code compliance officer or designated employee.

F. If after a warning notice has been issued for a second documented violation, or a violation continues for an extended period of time, or a person has received multiple warnings or written citations, the cold compliance official shall issue an immediate fine of \$100.00 and for each succeeding violation of a similar nature.

Category of Violation and Timeframes for Notice and Violation	Immediate	Time Sensitive	Regular Order	Fine	Repeat or Multiple Fine
A. Food	X				
B. Drink	X				
C. Air			X		
D. Space			X		
E. Light			X		
F. Indoor Shelter	X				
G. Outdoor Shelter	X				
H. Veterinary Care					
1. Emergency Treatment	X				
2. Treatment within 48 hours		X			
3. Incidental			X		
I. Sanitation	X				
J. Grooming		X			
K. Restraint	X				
L. Noise				\$15.00	\$30.00 for second; \$45.00 for third and subsequent

A. Fines - The following fines are established for violations of this Ordinance:

1. For any violation of Sections 4 through 9 inclusive, a fine of \$25 for the first offense, \$50 for the second offense occurring within twelve (12) months of the first offense, and \$100 for subsequent offenses occurring within twelve (12) months of the first offense will be imposed.
2. For any violation of Sections 10 or 11, a fine of \$100 for the first offense, \$200 for the second offense occurring within twenty-four (24) months of the first offense, and \$400 for subsequent offenses occurring within twenty-four (24) months of the first offense will be imposed.
3. For any violation of Section 12, a fine of \$400 for each and every offense will be imposed.

B. Right to Appeal.

1. Any person affected by any notice of violation may elect to appeal to the Town Council.
2. Any person affected by any notice of violation which had been issued in connection with the enforcement of any provision of this Ordinance may request and shall be granted a hearing on the matter by the Town Council, provided that such person shall within ten (10) days after service of a notice of violation, file with the Town Council a signed written notice of appeal, requesting a hearing and setting forth a brief statement

of the reasons therefore. Upon receipt of such notice of appeal, the Town Council shall set a time and place for such hearing and shall determine appeals as promptly as practicable. The Town Council, with a quorum present, shall hear appeals.

3. After such hearing the Town Council may, by a majority of members present, affirm, amend, modify or withdraw the notice of violation that has been appealed. Any person who shall fail, refuse or neglect to comply with the decision of the Town Council shall be guilty of violating the provisions of this Ordinance.
 4. In the event a person wishes to contest the decision of the Town Council, he or she may notify the Town of his or her intent within ten (10) days after the rendering of the decision by the Town Council. In that event the Town shall issue a municipal infraction citation to the aggrieved person who may request a hearing in the District Court of Maryland pursuant to the Municipal Infraction procedure. The decision of the Town Council in such a case shall be stayed, pending a resolution by the District Court. To the extent of this Section of the Ordinance, all violations of this Ordinance will be considered municipal infractions of the Town.
- C. Failure to pay after adjudication or request of adjudication by the Town will result in the amount of any fine imposed and be collected in the same manner as delinquent Town taxes.
- D. Impoundment of Animals and Willful Prevention or Obstruction of Impoundment of Animals –The Town shall have the authority to impound or order the impoundment of animals under the following circumstances:
1. Any animal not securely confined on the owner's or custodian's premises or observed running at large off the owner's or custodian's premises, subject to the provisions of Section 5, may be caught and impounded.
 2. Any animal found to be kept, harbored, or maintained in violation of any provision of Section 8, 10, or 11 of this Ordinance more than one (1) time in twenty-four (24) month period may be impounded.
 3. Any animal found to be kept, harbored or maintained in violation of any provision of Sections 4, 6, 7, or 9 of this Ordinance more than four (4) times in a twenty-four (24) month period may be impounded.
 4. Any animal found to be kept, harbored, or maintained in violation of any provision of Section 12 of this Ordinance may be impounded.

Any person that willfully prevents or obstructs the impoundment of an animal ordered impounded by the Town under provisions of this Ordinance shall be in violation of this Ordinance. Such person shall be issued a notice of violation, subject to the notification requirements and rights of appeal outlined in Section 13, and a fine of \$400 will be imposed.

The Town may, at its discretion and in agreement with Prince George's County, operate or contract the operation of an animal holding facility which may hold any impounded animals locally for up to three (3) days before being turned over to the Prince George's County Animal Control Facility. Conditions for the release for such animals to their owner or custodian or disposition thereof shall be prescribed by the appropriate animal control facility.

Conditions for the release of animals may include the required application for pet license if the animal does not have a current Prince George's County pet license, the administration of a proper rabies vaccination if the animal does not have a current rabies vaccination, payment of animal recovery and boarding fees established by the animal control facility or facilities, and the payment of all fines due the Town of Berwyn Heights and Prince George's County.

Section 8. Severability - If any section or part of a section of this Ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance.

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